

**STATE OF VERMONT
AGENCY OF HUMAN SERVICES
DEPARTMENT OF CORRECTIONS**

Directive: 326.01

Subject: Sixteen & Seventeen Year Old Youth

Effective Date: January 20, 1992 **Review and Re-Issue Date:**

Supersedes: NEW **APA Rule Number:**

Recommended for approval by:		Authorized By:	
_____ Signature	_____ Date	_____ Signature	_____ Date

1. Authority:

33 VSA, Chapter 55, Section 5530(a) and (e) as amended by the General Assembly and signed Governor Snelling on May 29, 1991; (See Appendix A)

33 VSA, Chapter 55, Section 5530 (d)

33 VSA, Chapter 7, Section 708 (b), (g)

28 VSA, Chapter 11, Section 759 (b) and Section 808

13 VSA, Chapter 229, Section 7559 (d) and (c)

2. Purpose:

The legislation prohibits placing sentenced and or detained 16 & 17 year old misdemeanants with adult offenders.

3. Applicability/Accessibility

This directive applies to: Department of Corrections staff and volunteers.

4. Directive

DIRECTIVE

A. DETAINED 16 AND 17 YEAR OLD MISDEMEANANTS

A minor who is under the age of 18 who has been arrested for a misdemeanor shall immediately and without first being taken elsewhere be released to his or her parents, guardian or custodian or be delivered to district court.

If the youth is delivered to district court, the arresting officer shall immediately file written notice thereof with the court together with a statement of the reason for taking the minor into custody. A minor eligible for release under 13 VSA, chapter 229 shall be released.

IN THE EVENT THAT THE MINOR IS NOT RELEASED THE MINOR SHALL NOT BE DETAINED IN A FACILITY FOR ADULT OFFENDERS (33 VSA §5530).

The police officer will have obtained a mittimus ordering detention from the court or state in his/her affidavit that the court has been contacted and detention has been ordered.

It will be the Department of Corrections responsibility to provide detention services for 16 & 17 year old youth who have been so ordered by the district court. The provision of these services will require cooperation between field and facilities. Staff from either FSU, Probation & Parole and the facilities may be involved in so called “jail removal” efforts.

Occasionally, 16 and 17 year old youth are alleged to have violated conditions of release. Such violation is a misdemeanor as outlined in 13 VSA S 7559 (d) or (e). The criminal contempt proceeding would dictate that the 16 or 17 year old not be held in adult correctional facilities or lockups even though the original charge is a felony. In other words, the criminal contempt charge would dictate detention, if ordered, in a non jail setting.

In some cases bail on the original felony charge will be revoked thus allowing in jail detention.

Youth arrested on arrest warrants for misdemeanor offenses shall be processed as outlined in this directive relating to non jail placement.

B. TIMING AND INTAKE

1. PROVISION OF DETENTION SERVICES DURING BUSINESS HOURS

During business hours, 7:45 AM-4:30 PM, area managers shall instruct police and district courts that the point of intake for the detained youth will be the FSU offices in St. Johnsbury, Barre, White River Jct., Brattleboro, Rutland, Burlington and St. Albans.

Area Managers shall provide procedures for “booking” Youth on detention. Such procedures shall include but not be limited to finger prints, pictures, ID face sheet, suicide probability scale, determination of medical and diet needs and such other issues as are covered in detention intake at the facility. Booking Procedures shall ensure that the youth does not enter the facility. Booking slips shall note that the person is a minor or juvenile and placement is in an alternative setting, e.g. apartment, 206 Depot, furlough, etc.

While the youth is detained at the FSU office two DOC staff will provide supervision. One of the staff must be Correctional Officer II (eligible) or III level or a CSS or CWS. Security staff shall be in charge of the detention. Supervision over the youth means staying close enough to control the youth's actions by laying hands on if that becomes necessary. Use of restraints shall be per DOC policy #1041.

Medical emergencies shall be handled through local rescue squads.

Area Managers shall ensure that procedures for phone use, visiting and others issues germane to the business of providing alternative detention are promulgated in their respective regions.

2. PROVISION OF DETENTION SERVICES AFTER BUSINESS HOURS AND ON WEEKENDS

Area Managers shall instruct police and district courts to contact the nearest correctional facility, with the exception of the Windsor Correction Facility, or such other contact office as may be appropriate when there is a court order for detention of a 16 or 17 year old misdemeanor after business hours and on weekends. After business hours will be 4:30 PM- 7:45 AM the next day Monday through Thursday. The weekend hours will begin at 4:30 PM on Friday.

The police or district court will be given directions/instructions as where to bring the youth.

The police officer will have obtained a mittimus ordering detention from the court or state in his/her affidavit that the court has been contacted and detention has been ordered.

C. ALTERNATIVE PLACEMENT

1. APARTMENT DETENTION

Youth may be detained in so-called juvenile apartments. Area managers shall ensure that procedures are promulgated that effect the detention of the youth. Two DOC staff will provide supervision. One of the staff must be Correctional Officer II or III level or a CSS or CWS. Procedures will consist of but not be limited to post orders, meal coverage, phone use, visiting, emergency medical coverage and transportation.

2. FURLOUGH

In appropriate situations we may utilize the furlough procedure for detained persons as outlined in 28 VSA, section 759 (b). Area managers will ensure that judges and state's attorneys are informed that this is the course of action that we wish to use on a case specific basis. Consent must be granted by the prosecuting state's attorney and the judge of the court in which the person is being prosecuted. The furlough may be to the youth's home, the home of a relative or a home of a responsible adult. Family members must agree to participate in such "in home detention" and sign off on such rules and regulations as may be necessary and appropriate. Area managers shall ensure that such rules are part of local "in home detention procedures". Procedures shall include but not be limited to the issuance of a furlough and the signing of the furlough agreement.

3. REFERRALS TO 206 DEPOT

In appropriate situations the youth may be furloughed to 206 Depot St., Bennington. The procedure to be followed is : During business hours contact the Assistant Director, Program Services, 241-2269 or in his/her

absence call the Placement Consultant at SRS, 241-2131. After business hours and on weekends contact SRS Emergency Services personnel, 863-7533. Inquiry should be made on the availability of a bed and an explanation that a placement is needed.

The person making the referral to 206 Depot shall communicate pertinent information to staff. Such information shall include but not be limited to behavior, medical needs, special diet and information about the criminal allegations.

Each referral to 206 Depot shall be made on a case by case basis. Length of stay shall also be on a case by case basis.

4. MOTEL/HOTEL DETENTION

As a last resort youth may be detained in a hotel/motel setting. Supervision shall follow apartment procedures. Area Managers shall ensure that procedures are in place to cover motel placement. Meal coverage shall be provided as described in Appendix B.

D. DETAINED 16 AND 17 YEAR OLD MISDEMEANANTS: PROBATION OR PAROLE VIOLATION ALLEGED.

Procedures outlined under Detained 16 & 17 year old misdemeanants shall be followed provided detention is needed pending probation or parole violation hearing. The key is for the court or Parole Board to be involved and order detention pending hearing. Non-jail detention can occur provided the alleged violation is technical in nature or the new offense is a misdemeanor. If the alleged new offense is a felony the normal citing, bail setting, and possible jail placement can occur with the felony as the controlling charge. The youth may be held in jail on the probation violation (misd.) provided bail has not been furnished on the felony allegation. Should bail be furnished on the felony charge, the youth must be immediately removed from jail on the misdemeanor probation case.

Under no circumstances can 16 & 17 year olds be held in correctional facilities and or lockups when the probation violation concerns a misdemeanor case and there is an absence of a felony charge or the individual has been cited on the felony charge.

E. SENTENCED 16 AND 17 YEAR OLD MISDEMEANANTS

It is the Directive of the DOC to place sentenced 16 & 17 year old misdemeanor youth on furlough to either their home, an apartment, or another suitable furlough location, unless the presenting behavior demonstrates an. Immediate threat to public safety.

Youth convicted of misdemeanor crimes and ordered to serve a period of incarceration shall not be placed in a facility for adult offenders.

Experience has shown that in many cases we will have sufficient lead time to prepare for an appropriate furlough placement. Current procedures in place for adult furloughs will be utilized.

1. FURLOUGH

Sentenced youth may be furloughed to:

- * home of parent, guardian, custodian or other responsible adult.
- * DOC "juvenile apartment", including use of electronic monitoring and/or FSU or facility staff supervision. Supervision to be determined on a case by case basis.
- * 206 Depot St., Bennington (see procedures outlined under detention).

2. PLACEMENT IN DOC APARTMENT

Sentenced youth may be placed in DOC "juvenile apartments" under direct staff supervision. Procedures outlined for detained youth shall be utilized.

F. SENTENCED 16 AND 17 YEAR OLD MISDEMEANANT PROBATION OR PAROLE VIOLATORS

Procedures for placement in non jail settings outlined under sentenced misdemeanants shall be followed in probation or parole violation cases.

G. SIXTEEN AND SEVENTEEN YEAR OLD FELONS

1. DETAINED

Individuals who have been arrested for a felony may be lodged in adult jails and lockups; provided a felony charge has been filed in district court or the district court has exercised jurisdiction over the matter and the state's attorney has determined that a felony charge will be filed without delay. The court will have exercised jurisdiction over the matter during the bail setting procedure.

It will be DOC responsibility to confirm that the charge has been filed in District Court, or the District Court has exercised jurisdiction over the matter and the State's Attorney has determined that a felony charge will be filed. Law enforcement officers will indicate such information on the affidavit that the State's Attorney will file a felony charge.

Individuals who are on probation or parole as a result of conviction for a felony may be placed in adult facilities due to alleged probation or parole violation. In situations where the violation is an alleged new offense and the new offense is a misdemeanor the youth may be held in adult correctional facilities and lockups PROVIDED he/she is incarcerated on the felony.

2. SENTENCED

Individuals who have been convicted of a felony and sentenced to a term of imprisonment may be placed in a facility for adult offenders.

TRANSFERS

Where it is appropriate to move a youth to another area or district the process can be accomplished, by transfer between FSU offices or from facility head count to the headcount of the receiving facility or FSU for supervision in the receiving site. Booking slips shall reflect the fact the transaction concerns a minor or juvenile misdemeanor and alternative placement is needed.

PAYMENT

Payment for detention services for 16 and 17 year old misdemeanants will be from federal funds. Aide numbers, object codes and other information is available through the Assistant Director, Program Services, 241-2269.

INCAPACITATED SIXTEEN AND SEVENTEEN YEAR OLDS

If police believe a youth is incapacitated by alcohol, they (police) will take the youth into protective custody as defined by 33 VSA, Chapter 7, Section, 708 (b). Police will then arrange for the youth to be evaluated by an alcohol crisis team, designated alcohol counselor, or alcohol treatment provider.

If the youth is found to not be incapacitated by alcohol, he may be released from police protective custody. The police may assist the youth, if he/she consents, home or to an approved alcohol treatment program or some other mutually agreeable location.

If the youth is found to be incapacitated by alcohol and the needed treatment is readily available, police shall transport the youth directly to the treatment program. If the youth agrees to participate in the treatment program, police custody shall end. If the youth refuses to be transported or to participate in the treatment program, the police shall release the youth to his parents or guardian.

If the youth is found to be incapacitated by alcohol and the needed treatment is not available, the police shall release the youth to his parent or guardian.

If the youth has no parent or guardian in the area, arrangements shall be made to house him/her according to the provisions of 33 VSA, Chapter 55. Police shall allege that the youth is a child in need of care or supervision. Police shall deliver the child to juvenile court using the standard procedures for emergency detention orders for children.

Adult jails or lockups SHALL NOT be used for the protective custody of 16 and 17 year old youth. The official in charge of an adult jailor lockup shall refuse to accept these youth and must notify the director of the office of drug and alcohol abuse of any person under 18 brought to an adult jailor lockup.

5. Training Method

5.1.

6. Quality Assurance Processes

6.1.

7. Financial Impact:

8. References

See Section on Authority, Guidelines promulgated by Federal office of Juvenile Justice and Delinquency Prevention.

9. Responsible Director and Draft Participants

This Directive was researched and drafted by Richard A. Smith, Assistant Director of Program Services.